

FACT WITNESSES

See LR 17.1 regarding request for and issuance of subpoenas.

Service

The United States Marshal (USM) serves subpoenas for defendants represented by CJA counsel. CJA funds are **not** available to pay for private process servers.

The USM should have at least 10 work days for service.

Counsel should attach to the subpoena an OBD-2, Instructions for Fact Witnesses Subpoenaed on Behalf of Indigent Defendant, which gives the witness information on allowable expenses, etc.

Fact Witness Voucher

The CJA attorney should obtain from the Clerk's Office an OBD-3, Fact Witness Voucher, for each witness who testifies.

The voucher is prepared by the CJA attorney. Complete:

- the identifying information at the top of the form, including the witness's social security number
- Part I, Section A
- Part II, Sections C through F, except the "Amounts (Dollars)" column

The witness signs the voucher (Section G).

The CJA attorney should then present the voucher to the clerk or a deputy who will certify it and submit it to the USM for payment. Witnesses may **not** deliver the voucher to the USM. The check will be mailed to the witness unless arrangements for immediate payment have been made in advance.

For further information on witnesses, fees, etc., please contact the New Hampshire U.S. Marshals Service at (603) 225-1632.

INSTRUCTIONS FOR FACT WITNESSES SUBPOENAED ON BEHALF OF INDIGENT DEFENDANT

Read the information contained on this form before your court appearance. Please call the U.S. Marshals Service at 603-225-1632 for information regarding travel arrangements and specific entitlements or if you have a medical condition or family situation that requires special consideration.

Verify Your Attendance

On the last business day **before** travel to court, call the defendant's attorney to verify that your attendance is required. This may prevent a wasted trip in the event the trial date is changed.

Appearance in Another City

If you are required to travel from another city to appear in court, immediately contact the U.S. Marshals Service to request instructions.

Reimbursement of Expenses & Attendance Fees

Attendance: You will be paid an attendance fee per day, including travel days.

Transportation: Call the U.S. Marshals Service to obtain information on transportation. Reimbursement will be made for travel by the least expensive method reasonably available to you. The following rules apply to transportation expenses:

Privately Owned Vehicles (POV): You will be reimbursed for travel expenses. In addition to the mileage allowance, necessary tolls, parking and other fees may be reimbursed. You must keep a record of your odometer readings if you travel by motorcycle or automobile. If two or more witnesses travel in the same vehicle, only one reimbursement for mileage can be made. **If POV expenses, including mileage, tolls, parking and other associated costs, are greater than the government airfare, you will be responsible for the difference.**

Common Carrier: If you are located outside the local court area, call the U.S. Marshals Service. Train, bus or airfare will be reimbursed at the Government rate. Reimbursement WILL NOT be made for First Class accommodations, "Frequent Flyer" tickets, or charter service. DO NOT purchase non-refundable tickets. If your appearance date changes or is canceled, you WILL NOT be reimbursed for non-refundable tickets. If you have any questions concerning transportation arrangements, please contact the U.S. Marshals Service.

Meals: If it is necessary for you to remain away from home overnight, you will receive a daily meal allowance.

Lodging: If it is necessary for you to remain away from home overnight, you will be reimbursed for the ACTUAL COST of your hotel/motel room, which may not exceed Government per diem rates. The U.S. Marshal can advise you regarding the maximum rate per night, including tax.

You Must Retain Receipts

All claims for parking must be supported by a receipt. Other expenses equal to \$25 or more must be supported by a receipt, with the exception of meals and mileage.

Dismissal

When you are advised that your attendance is no longer required, you should request information regarding the payment of the fees and allowances outlined above. The defendant's attorney will provide you with a Fact Witness Voucher on which you will be required to list your expenses. Return the completed voucher to the defendant's attorney who will present it to the clerk or a deputy clerk for certification. The form will then be processed by the U.S. Marshals Service, and the payment will be mailed to you. If you require funds to return home, you must bring this fact to the attention of the defendant's attorney who will notify the U.S. Marshals Service.